

## NOTICE OF ALLEGATIONS

to the

Chancellor of North Carolina State University

### **A. Processing Level of Case.**

Based on the information contained within the following allegation, the NCAA enforcement staff believes this case should be reviewed by a hearing panel of the NCAA Division I Committee on Infractions pursuant to procedures applicable to a severe breach of conduct (Level I violation).

### **B. Allegations.**

1. [NCAA Division I Manual Bylaws 11.5.1, 11.7.6, 13.1.2.4, 13.2.1 and 13.7.2.1.6 (2014-15); 10.01.1, 10.1, 10.1-(b) and 13.2.1 (2015-16); 12.11.1, 13.8.1, 16.2.1.1, 16.8.1 and 16.11.2.1 (2016-17)]

It is alleged that from September 2014 through March 2017, Orlando Early (Early), then men's basketball assistant coach and lead recruiter, violated the NCAA principles of ethical conduct when he and members of the men's basketball staff committed multiple recruiting violations and provided extra benefits during the recruitment and subsequent enrollment of then men's basketball prospective student-athlete Dennis Smith Jr. (Smith). Early and the men's basketball staff members arranged for and/or provided Smith and individuals associated with him approximately \$46,700 in impermissible inducements and benefits. As a result, Smith competed in 32 contests and received actual and necessary expenses while ineligible. Specifically:

- a. In September 2014, the then director of basketball operations arranged for approximately \$80 in impermissible recruiting inducements in the form of special parking in the loading dock of PNC Arena for Smith and three other prospects to use during their unofficial visits to attend the institution's September 27, 2014, football contest versus Florida State University. [NCAA Bylaws 13.2.1 and 13.7.2.1.6 (2014-15)]
- b. On September 29, 2014, the then head men's basketball coach allowed a former colleague, who was not a countable coach or certified to recruit off-campus, to accompany him to an evaluation of Smith at an off-campus recruiting event at the John D. Fuller Recreational Center in Fayetteville, North Carolina. [NCAA Bylaws 11.5.1, 11.7.6 and 13.1.2.4 (2014-15)]
- c. In November 2015, Early violated the NCAA principles of ethical conduct when he knowingly arranged for and/or provided an impermissible recruiting inducement of \$40,000 to an individual associated with Smith. Specifically, Early arranged for TJ Gassnola (Gassnola), a representative of the institution's athletics interests and then outside consultant for Adidas, which was also a representative of the institution's

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athletics interests, to provide Early with \$40,000 in cash to ensure Smith's commitment to the institution.<sup>1</sup> Early informed Gassnola that he intended to provide the money to Shawn Farmer (Farmer), an individual responsible for teaching or directing an activity in which a prospective student-athlete is involved and the trainer of then student-athlete Smith, who would then provide the money to the Smith family. [NCAA Bylaws 10.01.1, 10.1, 10.1-(b) and 13.2.1 (2015-16)]

- d. On 26 occasions between January 2016 through March 2017, Early violated the principles of ethical conduct when he knowingly provided approximately \$2,119 in impermissible recruiting entertainment benefits in the form of 44 complimentary admissions on the men's basketball office pass list to Farmer. [NCAA Bylaws 10.01.1, 10.1, 10.1-(b) and 13.8.1 (2015-16 through 2016-17)]
- e. On 13 occasions between November 2016 and February 2017, Early violated the principles of ethical conduct when he knowingly provided approximately \$4,562 in impermissible benefits in the form of 106 impermissible complimentary admissions on the men's basketball office pass list to then student-athlete Smith's family and friends. [NCAA Bylaws 10.01.1, 10.1, 10.1-(b), 16.2.1.1 and 16.11.2.1 (2016-17)]

This allegation serves as part of the basis for Allegation Nos. 3 and 4.

### **Level of Allegation No. 1:**

The NCAA enforcement staff believes a hearing panel of the NCAA Division I Committee on Infractions could conclude that Allegation No. 1 is a severe breach of conduct (Level I) because the violation (1) provided or was intended to provide a substantial or extensive recruiting advantage; (2) provided or was intended to provide a substantial or extensive impermissible benefit; (3) involved third-parties in recruiting violations about which institutional officials knew or should have known; (4) involved cash payments intended to secure, and which resulted in, the enrollment of a prospect; (5) was intentional or showed reckless indifference to the NCAA constitution and bylaws; and (6) involved unethical or dishonest conduct, which seriously undermined or threatened the integrity of the NCAA Collegiate Model. [NCAA Bylaws 19.1.1, 19.1.1-(d), 19.1.1-(f), 19.1.1-(g) and 19.1.1-(h) (2018-19)]

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<sup>1</sup> Adidas is a corporate entity (e.g., apparel or equipment manufacturer) which was known by members of the institution's men's basketball staff and athletics department to have participated in promoting the institution's intercollegiate athletics program. [NCAA Bylaw 6.4.1] Gassnola, as an outside consultant for Adidas, was known by members of the institution's men's basketball staff to be a member of an agency or organization promoting the institution's intercollegiate athletics program, and was known by a member of the institution's men's basketball staff to be assisting in the recruitment of then prospective student-athlete Smith. [NCAA Bylaw 6.4.2]

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### **Involved Individual:**

The enforcement staff believes a hearing panel could enter a show-cause order pursuant to Bylaw 19.9.5.4 regarding Early's involvement in Allegation No. 1.

### **2. [NCAA Division I Manual Bylaw 13.8.1 (2015-16)]**

It is alleged that on nine occasions from January through March 2016, men's basketball staff members violated NCAA recruiting restrictions when they provided approximately \$862 in impermissible benefits in the form of 14 complimentary admissions. Specifically:

- a. On seven occasions during January and February 2016, men's basketball staff provided approximately \$436 in impermissible benefits in the form of eight impermissible complimentary admissions on the men's basketball office pass list to Stanley Bland (Bland), an individual responsible for teaching or directing an activity in which a prospective student-athlete is involved. [NCAA Bylaw 13.8.1 (2015-16)]
- b. On March 8 and 9, 2016, the men's basketball staff provided approximately \$426 in impermissible benefits in the form of six impermissible complimentary admissions on the men's basketball office pass list to Keith Stevens (Stevens), an individual responsible for teaching or directing an activity in which a prospective student-athlete is involved. Specifically, the men's basketball staff provided Stevens three complimentary admissions to each of the men's basketball Atlantic Coast Conference Tournament contests against Wake Forest University and Duke University. [NCAA Bylaw 13.8.1 (2015-16)]

This allegation serves as part of the basis for Allegation Nos. 3 and 4.

### **Level of Allegation No. 2:**

The NCAA enforcement staff believes a hearing panel of the NCAA Division I Committee on Infractions could conclude that Allegation No. 2 is a significant breach of conduct (Level II) because the violations (1) were not isolated or limited in nature, (2) provided or were intended to provide more than a minimal recruiting or other advantage, (3) included more than minimal impermissible benefits and (4) compromised the integrity of the NCAA Collegiate Model. [NCAA Bylaw 19.1.2 (2018-19)]

### **Involved Individual:**

None

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### 3. [NCAA Division I Manual Bylaw 11.1.1.1 (2015-16 and 2016-17)]

It is alleged that during the 2015-16 and 2016-17 academic years, Mark Gottfried (Gottfried), then men's basketball head coach, is presumed responsible for the violations detailed in Allegation Nos. 1-(c), 1-(d), 1-(e) and 2 and did not rebut the presumption of responsibility. Specifically, Gottfried did not demonstrate that he monitored his direct report, Orlando Early (Early), then men's basketball assistant coach and lead recruiter, for compliance as it pertained to Early involving TJ Gassnola (Gassnola), a representative of the institution's athletics interests and then outside consultant for Adidas, and Shawn Farmer (Farmer), an individual associated with then men's basketball prospective student-athlete Dennis Smith Jr. (Smith), in Early's recruitment of Smith, which involved the arrangement and/or provision of a \$40,000 recruiting inducement. Additionally, Gottfried did not demonstrate that he monitored his staff's provision of complimentary admissions on the men's basketball office pass list, which involved the provision of 164 impermissible complimentary admissions to individuals associated with prospects and Smith's family and friends.

#### **Level of Allegation No. 3:**

The NCAA enforcement staff believes a hearing panel of the NCAA Division I Committee on Infractions could conclude that Allegation No. 3 is a severe breach of conduct (Level I) because it is a head coach responsibility violation resulting from underlying Level I and II violations and seriously undermined or threatened the integrity of the NCAA Collegiate Model. [NCAA Bylaws 19.1.1 and 19.1.1-(e) (2018-19)]

#### **Involved Individual:**

The enforcement staff believes a hearing panel could enter a show-cause order pursuant to NCAA Bylaw 19.9.5.4 regarding Gottfried's involvement in Allegation No. 3.

### 4. [NCAA Division I Manual Constitution 2.8.1 (2015-16 and 2016-17)]

It is alleged that during the 2015-16 and 2016-17 academic years, the scope and nature of the violations detailed in Allegation Nos. 1-(d), 1-(e) and 2 demonstrate that the institution violated the NCAA principle of rules compliance when it failed to adequately monitor its men's basketball program's provision of complimentary admissions on the men's basketball office pass list by its failure to establish an adequate system for ensuring compliance with NCAA legislation.

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### **Level of Allegation No. 4:**

The NCAA enforcement staff believes a hearing panel of the NCAA Division I Committee on Infractions could conclude that Allegation No. 4 is a significant breach of conduct (Level II) because the violation (a) is a failure to monitor, which is presumed Level II; (b) resulted from the subparts of underlying violations that could be considered Level II violations; and (c) compromised the integrity of the NCAA Collegiate Model. [NCAA Bylaws 19.1.2 and 19.1.2-(b) (2018-19)]

### **Involved Individual:**

None.

### **C. Potential Aggravating and Mitigating Factors.**

Pursuant to NCAA Bylaw 19.7.1, the NCAA enforcement staff has identified the following potential aggravating and mitigating factors that a hearing panel of the NCAA Division I Committee on Infractions may consider.

#### **1. Institution:**

##### **a. Aggravating factors. [NCAA Bylaw 19.9.3]**

- (1) Multiple Level I and Level II violations by the institution. [NCAA Bylaws 19.9.3-(a) and 19.9.3-(g)]

The NCAA enforcement staff identified the violations in Allegation Nos. 1 and 3 as Level I. The enforcement staff identified the violations in Allegation Nos. 2 and 4 as Level II.

- (2) A history of Level I, Level II or major violations by the institution. [NCAA Bylaw 19.9.3-(b)]

January 7, 1955 – Improper recruiting transportation and tryouts in football and men's basketball programs.

January 11, 1957 – Improper recruiting inducements in football and men's basketball programs.

October 24, 1972 – Improper recruiting employment, inducements, lodging and transportation in its men's basketball program.

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March 21, 1983 – Improper recruiting contacts, entertainment, lodging, transportation and excessive number of official visits in its football program.

December 12, 1989 – Extra benefits and lack of institutional control in its men's basketball program.

- (3) Persons of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct. [NCAA Bylaw 19.9.3-(h)]

As outlined in Allegation No. 1, Orlando Early (Early), then men's basketball assistant coach and lead recruiter, was a person of authority and was personally involved in the violations.

- (4) A pattern of noncompliance within the sport program involved. [NCAA Bylaw 19.9.3-(k)]

As outlined in Allegation Nos. 1 through 3, the men's basketball program, under Mark Gottfried, then head men's basketball coach, failed to comply with recruiting, benefits and complimentary admissions legislation as they pertained to the recruitment and enrollment of then men's basketball prospective student-athlete Dennis Smith Jr., and the head men's basketball coach failed to monitor compliance in these areas.

- b. Mitigating factor. [NCAA Bylaw 19.9.4]

An established history of self-reporting Level III or secondary violations. [NCAA Bylaw 19.9.4-(d)]

The institution has self-reported 91 Level III violations over the previous five years, approximately 18 violations each year.

### **2. Involved Individual [Orlando Early (Early), then men's basketball assistant coach and lead recruiter]:**

- a. Aggravating factors. [NCAA Bylaw 19.9.3]

- (1) Unethical conduct. [NCAA Bylaw 19.9.3-(e)]

As outlined in Allegation No. 1, Early engaged in unethical conduct when he knowingly arranged for the provision of an improper inducement to a prospective student-athlete.

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- (2) Violations were premeditated, deliberate or committed after substantial planning. [NCAA Bylaw 19.9.3-(f)]

As detailed in Allegation No. 1, Early deliberately planned for an outside third party to provide him with monies to then provide to an individual associated with then men's basketball prospective student-athlete Dennis Smith Jr. (Smith) with the belief that the monies would be funneled to Smith's family.

- (3) Persons of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct. [NCAA Bylaw 19.9.3-(h)]

As outlined in Allegation No. 1, Early, then men's basketball assistant coach and lead recruiter, was a person of authority and was personally involved in the violations.

- (4) Intentional, willful or blatant disregard for the NCAA constitution and bylaws. [NCAA Bylaw 19.9.3-(m)]

As detailed in Allegation No. 1, Early intentionally disregarded NCAA rules when he arranged for an outside third party to provide him with monies to then provide to the trainer of Smith with the belief that the monies would be funneled to Smith's family to secure Smith's commitment to the institution.

- b. Mitigating factor. [NCAA Bylaw 19.9.4]

The absence of prior Level I, Level II or major violations committed by the involved individual. [NCAA Bylaw 19.9.4-(h)]

Early has not been named as an involved individual in any Level I, Level II or major infractions cases during his 25-year career as a collegiate basketball coach.

**3. Involved Individual [Mark Gottfried (Gottfried), former head men's basketball coach]:**

- a. Aggravating factor. [NCAA Bylaw 19.9.3]

A pattern of noncompliance within the sport program involved. [NCAA Bylaw 19.9.3-(k)]



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As outlined in Allegation Nos. 1 through 3, the men's basketball program, under Gottfried, failed to comply with recruiting, benefits and complimentary admissions legislation as they pertained to the recruitment and enrollment of then men's basketball prospective student-athlete Dennis Smith Jr., and the head men's basketball coach failed to monitor compliance in these areas.

b. Mitigating factor. [NCAA Bylaw 19.9.4]

The absence of prior Level I, Level II or major violations committed by the involved individual. [NCAA Bylaw 19.9.4-(h)]

Gottfried has not been named as an involved individual in any Level I, Level II or major infractions cases during his 32-year career as a collegiate men's basketball coach.

### **D. Hearing Attendance.**

In addition to the involved individuals and institutional representatives as outlined in NCAA Division I Bylaw 19.7.7.5.2, the hearing panel of the NCAA Division I Committee on Infractions may benefit from asking the following individual(s) to attend the hearing pursuant to Bylaw 19.7.7.5: None.

### **E. Factual Information.**

The attached exhibit details the factual information on which the enforcement staff relies for Allegation Nos. 1 through 4. The enforcement staff incorporates the factual information referenced throughout this document, its exhibits and all other documents in the secure filing system.

### **F. Response to Allegations.**

1. Please indicate whether the information contained within these allegations is substantially correct and whether the institution and involved individuals identified in these allegations believe violations of NCAA legislation occurred. Submit materials to support your response.
2. If the institution and involved individuals believe NCAA violations occurred, please indicate whether there is substantial agreement on the level of the violation. Submit materials to support your response.



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3. Please indicate whether the factual information is substantially correct and whether the institution and involved individuals have additional pertinent information and/or facts. Submit facts in support of your response.

### **G. Request for Supplemental Information.**

1. Provide mailing and email addresses for all necessary parties to receive communications from the hearing panel of the NCAA Division I Committee on Infractions related to this matter.
2. Indicate how the violations were discovered.
3. Provide a detailed description of any corrective or punitive actions implemented by the institution as a result of the violations acknowledged in this inquiry. In that regard, explain the reasons the institution believes these actions to be appropriate and identify the violations on which the actions were based. Additionally, indicate the date that any corrective or punitive actions were implemented.
4. Provide a detailed description of all disciplinary actions taken against any current or former athletics department staff members as a result of violations acknowledged in this inquiry. In that regard, explain the reasons the institution believes these actions to be appropriate and identify the violations on which the actions were based. Additionally, indicate the date that any disciplinary actions were taken and submit copies of all correspondence from the institution to each individual describing these disciplinary actions.
5. Provide a short summary of every past Level I, Level II or major infractions case involving the institution or individuals named in this notice. In this summary, provide the date of the infractions report(s), a description of the violations found by the Committee on Infractions/hearing panel, the individuals involved, and the penalties and corrective actions. Additionally, provide a copy of any major infractions reports involving the institution or individuals named in this notice that were issued by the Committee on Infractions/hearing panel within the last 10 years.
6. Provide a chart depicting the institution's reporting history of Level III and secondary violations for the past five years. In this chart, please indicate for each academic year the number of total Level III and secondary violations reported involving the institution or individuals named in this notice. Also include the applicable bylaws for each violation, and then indicate the number of Level III and secondary violations involving just the sports team(s) named in this notice for the same five-year time period.
7. Provide the institution's overall conference affiliation, as well as the total enrollment on campus and the number of men's and women's sports sponsored.

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8. Provide a statement describing the general organization and structure of the institution's intercollegiate athletics department, including the identities of those individuals in the athletics department who were responsible for the supervision of all sport programs during the previous four years.
9. State when the institution has conducted systematic reviews of NCAA and institutional regulations for its athletics department employees. Also, identify the agencies, individuals or committees responsible for these reviews and describe their responsibilities and functions.
10. Provide the following information concerning the sports program(s) identified in this inquiry:
  - The average number of initial and total grants-in-aid awarded during the past four academic years.
  - The number of initial and total grants-in-aid in effect for the current academic year (or upcoming academic year if the regular academic year is not in session) and the number anticipated for the following academic year.
  - The average number of official paid visits provided by the institution to prospective student-athletes during the past four years.
  - Copies of the institution's squad lists for the past four academic years.
  - Copies of the institution's media guides, either in hard copy or through electronic links, for the past four academic years.
  - A statement indicating whether the provisions of NCAA Bylaws 31.2.2.3 and 31.2.2.4 apply to the institution as a result of the involvement of student-athletes in violations noted in this inquiry.
  - A statement indicating whether the provisions of Bylaw 19.9.7-(g) apply to the institution as a result of the involvement of student-athletes in violations noted in this inquiry.
11. Consistent with the Committee on Infractions IOP 4-16-2-1 (Total Budget for Sport Program) and 4-16-2-2 (Submission of Total Budget for Sport Program), please submit the three previous fiscal years' total budgets for all involved sport programs. At a minimum, a sport program's total budget shall include: (a) all contractual compensation including salaries, benefits and bonuses paid by the institution or related entities for coaching,

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operations, administrative and support staff tied to the sport program; (b) all recruiting expenses; (c) all team travel, entertainment and meals; (d) all expenses associated with equipment, uniforms and supplies; (e) game expenses; and (f) any guarantees paid associated with the sport program.

Any additional information or comments regarding this case are welcome.

